



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,088	07/26/2001	Alessandro Lambiase	026073.00020	6075

4372 7590 12/04/2009  
ARENT FOX LLP  
1050 CONNECTICUT AVENUE, N.W.  
SUITE 400  
WASHINGTON, DC 20036

EXAMINER
----------

WOODWARD, CHERIE MICHELLE

ART UNIT	PAPER NUMBER
----------	--------------

1647

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

12/04/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com  
IPMatters@arentfox.com  
Patent\_Mail@arentfox.com

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09890088	7/26/2001	LAMBIASE, ALESSANDRO	026073.00020

ARENT FOX LLP  
1050 CONNECTICUT AVENUE, N.W.  
SUITE 400  
WASHINGTON, DC 20036

**EXAMINER**

CHERIE M. WOODWARD

ART UNIT	PAPER
----------	-------

1647	20091201
------	----------

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

The reply filed on 10/29/2009 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant has not adequately replied to the Provisional Obviousness Type Double Patenting Rejection. Applicant states that because the copending application has not issued, a terminal disclaimer to obviate the rejection would be premature (Response p. 13). No argument against the Provisional Rejection is presented. Accordingly, Applicant's Response is treated as a request to hold a rejection in abeyance.

A request to hold a rejection in abeyance is not a proper response to a rejection. Rather, a request to hold a matter in abeyance may only be made in response to an Objection or Requirements as to Form (see MPEP 714.02 and 37 CFR 1.111(b)).

As such, the submission filed 10/29/2007 is not fully responsive because it is not in compliance with 37 CFR 1.111(b), which states that "[i]n order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cherie M. Woodward whose telephone number is (571) 272-3329. The examiner can normally be reached on Monday - Friday 9:30am-6:00pm (EST). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on (571) 272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair->

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cherie M. Woodward/  
Primary Examiner, Art Unit 1647